

Message Text

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PAGE 01 CAPE T 00416 01 OF 03 031712Z
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AMEMBASSY PRETORIA IMMEDIATE

C O N F I D E N T I A L SECTION 1 OF 3 CAPE TOWN 416

EXDIS

E.O. 11652: GDS
TAGS: RH, PINT
SUBJ: RHODESIA: INTERNAL AGREEMENT DOCUMENTS

THE OFFICE OF THE RHODESIAN DIPLOMATIC REPRESENTATIVE TO
H OUIJAFRGRA HAS PROVIDED US THE FOLLOWING TEXTS OF TWO
DOCUMENTS COMPRISING THE AGREEMENT ON A TRANSITIONAL
GOVT WHICH SMITH, MUZOREWA, SITHOLE AND CHIRAU
SIGNED EARLIER TODAY, MARCH 3. THE OFFICE NOTED THAT IT
WAS NOT SURE HOW THE CONTENTS OF THE TWO DOCUMENTS WERE
COMBINED IN THE NEW INSTRUMENT BUT THOUGHT THEY APPEAR
TEXTUALLY AS GIVEN BELOW.

RHODESIAN CONSTITUTIONAL AGREEMENT
"WHEREAS THE PRESENT CONSTITUTIONAL SITUATION IN
RHODESIA HAS LED TO THE IMPOSITION OF ECONOMIC AND OTHER
SANCTIONS BY THE INTERNATIONAL COMMUNITY AGAINST RHODESIA
AND TO ARMED CONFLICT WITHIN RHODESIA AND FROM NEIGHBOURING
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TERRITORIES;
AND WHEREAS IT IS NECESSARY IN THE INTERESTS OF OUR
COUNTRY THAT AN AGREEMENT SHOULD BE REACHED THAT WOULD LEAD
TO THE TERMINATION OF SUCH SANCTIONS AND THE CESSATION OF
THE ARMED CONFLICT;
AND WHEREAS, IN AN ENDEAVOUR TO REACH SUCH AN AGREEMENT,
DELEGATES FROM THE RHODESIAN GOVERNMENT, AFRICAN NATIONAL

COUNCIL (SITHOLE), UNITED AFRICAN NATIONAL COUNCIL AND ZIMBABWE UNITED PEOPLES ORGANIZATION HAVE MET DURING THE LAST TWO MONTHS IN SALISBURY AND, HAVING DISCUSSED FULLY THE PROPOSALS PUT FORWARD BY THE VARIOUS DELEGATIONS, HAVE REACHED AGREEMENT ON CERTAIN FUNDAMENTAL PRINCIPLES TO BE EMBODIED IN A NEW CONSTITUTION THAT WILL LEAD TO THE TERMINATION OF THE AFOREMENTIONED SANCTIONS AND THE CESSATION OF THE ARMED CONFLICT;

NOW, THEREFORE:

A. IT IS HEREBY AGREED THAT A CONSTITUTION WILL BE DRAFTED AND ENACTED WHICH WILL PROVIDE FOR MAJORITY RULE ON THE BASIS OF UNIVERSAL ADULT SUFFRAGE ON THE FOLLOWING TERMS -

1. THERE WILL BE A LEGISLATIVE ASSEMBLY CONSISTING OF ONE HUNDRED MEMBERS AND THE FOLLOWING PROVISIONS WILL APPLY THERETO-

(A) THERE WILL BE A COMMON VOTERS ROLL WITH ALL CITIZENS OF EIGHTEEN YEARS AND OVER BEING ELIGIBLE FOR REGISTRATION AS VOTERS, SUBJECT TO CERTAIN RECOGNIZED DISQUALIFICATIONS;

(B) SEVENTY-TWO OF THE SEATS IN THE LEGISLATIVE ASSEMBLY WILL BE RESERVED FOR BLACKS WHO WILL BE ELECTED BY VOTERS WHO ARE ENROLLED ON THE COMMON ROLL;

(C) TWENTY-EIGHT OF THE SEATS IN THE LEGISLATIVE ASSEMBLY WILL BE RESERVED FOR WHITES (I.E. EUROPEANS AS DEFINED IN THE 1969 CONSTITUTION) WHO WILL BE ELECTED AS FOLLOWS-

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(I) TWNETY WILL BE ELECTED ON A PREFERENTIAL VOTING SYSTEM BY WHITE VOTERS WHO ARE ENROLLED ON THE COMMON ROLL;

(II) EIGHT WILL BE ELECTED BY VOTERS WHO ARE ENROLLED ON THE COMMON ROLL FROM SIXTEEN CANDIDATES WHO WILL BE NOMINATED, IN THE CASE OF THE FIRST PARLIAMENT, BY AN ELECTORAL COLLEGE COMPOSED OF THE WHITE MEMBERS OF THE PRESENT HOUSE OF ASSEMBLY AND, IN THE CASE OF ANY SUBSEQUENT PARLIAMENT, BY AN ELECTORAL COLLEGE COMPOSED OF THE TWENTY-EIGHT WHITES WHO ARE MEMBERS OF THE PARLIAMENT DISSOLVED IMMEDIATELY PRIOR TO THE GENERAL ELECTION;

(D) THE RESERVED SEATS REFERRED TO IN (C) ABOVE SHALL BE RETAINED FOR A PERIOD OF AT LEAST TEN YEARS OR TWO PARLIAMENTS, WHICHEVER IS THE LONGER, AND SHALL BE REVIEWED AT THE EXPIRATION OF THAT PERIOD, AT WHICH TIME A COMMISSION SHALL BE APPOINTED, THE CHAIRMAN OF WHICH SALL BE A JUDGE OF THE HIGH COURT, TO UNDERTAKE THIS REVIEW. IF THAT COMMISSION RECOMMENDS THAT THE ARRANGEMENTS REGARDING THE SAID RESERVED SEATS SHOULD BE CHANGED -

(I) AN AMENDMENT TO THE CONSTITUTION TO EFFECT SUCH CHANGE MAY BE MADE BY A BILL WHICH RECEIVES THE AFFIRMATIVE VOTES OF NOT LESS THAN FIFTY-ONE MEMBERS;

(II) THE SAID BILL SHALL ALSO PROVIDE THAT THE SEVENTY-TWO

SEATS REFERRED TO IN (B) ABOVE SHALL NOT BE RESERVED FOR
BLACKS;

(E) THE MEMBERS FILLING THE SEATS REFERRED TO IN (C)
ABOVE WILL BE PROHIBITED FROM FORMING A COALITION WITH ANY
SINGLE MINORITY PARTY FOR THE PURPOSE OF FORMING A
GOVERNMENT.

2. THERE WILL BE A JUSTICIABLE DECLARATION OF
RIGHTS WHICH WILL PROTECT THE RIGHTS AND FREEDOMS OF
INDIVIDUALS AND, INTER ALIA, WILL PROVIDE FOR PROTECTION
FROM DEPRIVATION OF PROPERTY UNLESS ADEQUATE COMPENSATION
IS PAID PROMPTLY, AND FOR PROTECTION OF PENSION RIGHTS OF
PERSONS WHO ARE MEMBERS OF PENSION FUNDS.

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C O N F I D E N T I A L SECTION 2 OF 3 CAPE TOWN 416

EXDIS

3. THE INDEPENDENCE AND QUALIFICATIONS OF THE JUDICIARY
WILL BE ENTRENCHED AND JUDGES WILL HAVE SECURITY OF TENURE.

4. THERE WILL BE AN INDEPENDENT PUBLIC SERVICES BOARD, THE MEMBERS
OF WHICH WILL HAVE SECURITY OF TENURE. THE
BOARD WILL BE RESPONSIBLE FOR APPOINTMENTS TO, PROMOTIONS
IN, AND DISCHARGES FROM, THE PUBLIC SERVICE.

5. THE PUBLIC SERVICE, POLICE FORCE, DEFENSE FORCES
AND PRISON SERVICE WILL BE MAINTAINED IN A HIGH STATE OF
EFFICIENCY AND FREE FROM POLITICAL INTERFERENCE.

6. PENSIONS WHICH ARE PAYABLE FROM THE CONSOLIDATED REVENUE FUND WILL BE GUARANTEED AND CHARGED ON THE CONSOLIDATED REVENUE FUND AND WILL BE REMITTABLE OUTSIDE THE COUNTRY.

7. CITIZENS WHO AT PRESENT ARE ENTITLED TO DUAL CITIZEN-
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SHIP WILL NOT BE DEPRIVED OF THEIR PRESENT ENTITLEMENT.

8. THE ABOVE-MENTIONED PROVISIONS WILL BE SET OUT OR PROVIDED FOR IN THE CONSTITUTION AND WILL BE REGARDED AS SPECIALLY ENTRENCHED PROVISIONS WHICH MAY ONLY BE AMENDED BY A BILL WHICH RECEIVES THE AFFIRMATIVE VOTES OF NOT LESS THAN SEVENTY-EIGHT MEMBERS.

B. IT IS HEREBY ALSO AGREED THAT, FOLLOWING THE AGREEMENT SET OUT ABOVE, THE NEXT STEP WILL BE THE SETTING UP OF A TRANSITIONAL GOVERNMENT. THE PRIME FUNCTION OF THE TRANSITIONAL GOVERNMENT WILL BE;

(A) TO BRING ABOUT A CEASEFIRE; AND

(B) TO DEAL WITH RELATED MATTERS SUCH AS -

(I) THE COMPOSITION OF THE FUTURE MILITARY FORCES, INCLUDING THOSE MEMBERS OF THE NATIONALIST FORCES WHO WISH TO TAKE UP A MILITARY CAREER, AND THE REHABILITATION OF OTHERS;

(II) THE REHABILITATION OF THOSE AFFECTED BY THE WAR.

C. IT IS ALSO HEREBY AGREED THAT IT WILL BE THE DUTY OF THE TRANSITIONAL GOVERNMENT TO DETERMINE AND DEAL WITH THE FOLLOWING MATTERS -

(A) THE RELEASE OF DETAINEES;

(B) THE REVIEW OF SENTENCES FOR OFFENCES OF A POLITICAL CHARACTER;

(C) THE FURTHER REMOVAL OF DISCRIMINATION;

(D) THE CREATION OF A CLIMATE CONDUCTIVE TO THE HOLDING OF FREE AND DEMOCRATIC ELECTIONS;

(E) THE DRAFTING OF THE FUTURE CONSTITUTION IN TERMS OF THE AGREEMENT REACHED ABOVE;

(F) PROCEDURES FOR REGISTRATION OF PERSONS WITH A VIEW TO THE HOLDING OF A GENERAL ELECTION AT THE EARLIEST POSSIBLE DATE."

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C O N F I D E N T I A L SECTION 3 OF 3 CAPE TOWN 416

EXDIS

PROPOSED COMPOSITION AND FUNCTIONS OF THE TRANSITIONAL
GOVERNMENT

"1. THE TRANSITIONAL GOVERNMENT WILL COMPRISE AN
EXECUTIVE COUNCIL AND A MINISTERIAL COUNCIL.

2. EXECUTIVE COUNCIL

(A) COMPOSITION

THE EXECUTIVE COUNCIL WILL BE COMPOSED OF THE FOUR
HEADS OF THE NEGOTIATING DELEGATIONS - I.E., MR SMITH,
BISHOP MUZOREWA, REV SITHOLE AND SENATOR CHIRAU.
THE WILL TAKE IT IN TURNS TO ACT AS CHARMAN.

(B) FUNCTIONS

(I) THE EXECUTIVE COUNCIL WILL BE RESPONSIBLE FOR
ENSURING THAT THE FUNCTIONS GIVEN TO, THE DUTIES IMPOSED
ON, THE TRANSITIONAL GOVERNMENT BY THE CONSTITUTIONAL
AGREEMENT ARE DEALT WITH AS EXPEDITIOUSLY AS POSSIBLE.
IT WILL TAKE POLICY DECISIONS IN CONNECTION WITH THE
PREPARATION AND DRAFTING OF THE FUTURE CONSTITUTION AND
THE OTHER MATTERS SET OUT IN SECTIONS B AND C OF THE
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CONSTITUTIONAL AGREEMENT AND WITH ANY OTHER MATTERS WHICH
MAY ARISE.

(II) THE EXECUTIVE COUNCIL MAY REFER THE MATTERS SET
OUT IN SECTIONS B AND C OF THE CONSTITUTIONAL AGREEMENT,
OR ANY OTHER MATTER, TO THE MINISTERIAL COUNCIL FOR
EXAMINATION AND RECOMMENDATION.

(III) THE EXECUTIVE COUNCIL WILL REVIEW DECISIONS OR
RECOMMENDATIONS OF THE MINISTERIAL COUNCIL AND MAY CONFIRM
SUCH DECISIONS OR RECOMMENDATIONS OR REFER THEM BACK TO

THE MINISTERIAL COUNCIL FOR FURTHER CONSIDERATION.

(IV) THE EXECUTIVE COUNCIL'S DECISIONS WILL BE REACHED BY CONSENSUS --I.E., THEY WILL BE UNANIMOUS.

3. MINISTERIAL COUNCIL

(A) COMPOSITION

THE MINISTERIAL COUNCIL WILL BE COMPOSED OF EQUAL NUMBERS OF BLACK AND WHITE MINISTERS. THE BLACK MINISTERS WILL BE NOMINATED IN EQUAL PROPORTIONS BY THOSE HEADS OF DELEGATIONS ENGAGED IN THE NEGOTIATIONS. THE WHITE MINISTERS WILL BE NOMINATED BY THE PRIME MINISTER. THE CHAIRMANSHIP WILL ALTERNATE BETWEEN BLACKS AND WHITES FOR EQUAL PERIODS YET TO BE DECIDED.

(B) FUNCTIONS

(I) THE MINISTERIAL COUNCIL WILL OPERATE ON THE CABINET SYSTEM. FOR EACH PORTFOLIO, OR GROUP OF PORTFOLIOS, THERE WILL BE A BLACK AND A WHITE MINISTER WHO WILL SHARE RESPONSIBILITY.

(II) THE MINISTERIAL COUNCIL WILL BE RESPONSIBLE FOR INITIATING LEGISLATION AND FOR SUPERVISING THE PREPARATION OF SUCH LEGISLATION AS MAY BE DIRECTED BY THE EXECUTIVE COUNCIL.

(III) THE MINISTERIAL COUNCIL WILL MAKE RECOMMENDATIONS TO THE EXECUTIVE COUNCIL ON ALL MATTERS REFERRED TO IT BY THE EXECUTIVE COUNCIL AND ON ANY OTHER MATTER IT THINKS CONFIDENTIAL

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(IV) DECISIONS OF THE MINISTERIAL COUNCIL WILL BE SUBJECT TO REVIEW BY THE EXECUTIVE COUNCIL.

4. PARLIAMENT

(A) PARLIAMENT WILL CONTINUE TO FUNCTION DURING THE LIFE OF THE TRANSITIONAL GOVERNMENT AND WILL MEET FOR THE FOLLOWING PURPOSES AS AND WHEN THE EXECUTIVE COUNCIL CONSIDERS IT SHOULD BE SUMMONED:

(I) TO PASS A CONSTITUTION AMENDMENT ACT ENABLING MINISTERS WHO HAVE NOT BEEN ELECTED TO PARLIAMENT TO SERVE FOR PERIODS IN EXCESS OF FOUR MONTHS;

(II) TO PASS THE 1978/79 BUDGET;

(IV) TO ENACT ANY LEGISLATION OR DEAL WITH ANY OTHER MATTER BROUGHT FORWARD BY THE TRANSITIONAL GOVERNMENT (E.G. FOR THE FURTHER REMOVAL OF DISCRIMINATION);

(V) TO ENACT THE NEW CONSTITUTION;

(VI) TO NOMINATE 16 WHITES FOR ELECTION BY VOTERS ON THE COMMON ROLL TO EIGHT OF THE SEATS RESERVED FOR WHITES.

(B) THE WORK OF THE VARIOUS SELECT COMMITTEES AND OF THE SENATE LEGAL COMMITTEE WILL PROCEED AS NORMAL".

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